

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION

JUAN HERNANDEZ, JR.	§	
<i>Plaintiff,</i>	§	
	§	
VS.	§	CIVIL ACTION NO.
	§	
	§	
C & D PRODUCTION SPECIALIST	§	
CO., INC. AND HECTOR LOZANO	§	
GARCIA	§	
<i>Defendants.</i>	§	

PLAINTIFF'S ORIGINAL COMPLAINT

A. PARTIES

1. Plaintiff, JUAN HERNANDEZ, JR., is an individual that is a citizen of the State of Texas.
2. Defendant, C & D PRODUCTION SPECIALIST CO., INC., is a corporation that is incorporated under the laws of the State of Louisiana. Defendant has its principle place of business in the State of Louisiana. Defendant may be served with process by serving its registered agent, Edward Tomas, 7600 Cutlass Court, Arlington Texas, 76016.
3. Defendant, Hector Lozano Garcia, an individual and citizen of the State of New Mexico, may be served with process at 7315 Williamsburg Road, Albuquerque New Mexico, 87114.

B. JURISDICTION

4. The Court has jurisdiction over the lawsuit under 28 U.S.C §1332(a)(1) because Plaintiff and Defendants are citizens of different U.S. states, and the amount in controversy exceeds \$75,000.00, excluding interest and costs.

C. VENUE

5. Venue is proper in this district under 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to this claim occurred in this district, arising out of a motor vehicle incident, which occurred on or about April 25, 2018 in or around Reeves County, Texas.

D. FACTS

6. This lawsuit results from a collision that occurred on April 25, 2018 on SH-302 in Reeves County, Texas.

7. Plaintiff JUAN HERNANDEZ, JR., was driving his vehicle reasonably and prudently when a vehicle driven by Defendant HECTOR LOZANO GARCIA, owned by Defendant C & D PRODUCTION SPECIALISTS CO., INC., failed to keep a proper lookout and failed to control his speed and in the process violently struck the vehicle driven by Plaintiff JUAN HERNANDEZ, JR.

E. NEGLIGENCE

8. Plaintiff would show on the occasion in question, Defendant HECTOR LOZANO GARCIA was negligent in numerous and various acts and omissions, including but not limited to the following, said negligence being a proximate cause of the collision in question:

- a. In failing to keep a proper lookout for Plaintiff;
- b. In operating the pickup truck at an unsafe and excessive speed;
- c. In failing to control his speed;
- d. In operating the pickup truck in a manner which posed a danger to the traveling public;
- e. In failing to maintain and/or control the speed of the pickup truck Defendant was driving as a reasonable and prudent driver would have done under the same or similar circumstances;
- f. In failing to properly operate the pickup truck in order to avoid the collision in question;
- g. In failing to take evasive action in order to avoid the collision;
- h. In failing to maintain proper control of his pickup truck;
- i. In operating the pickup truck in an exhausted and un-alert physical and mental state of being, knowing that it was unsafe to do so.
- j. In operating the pickup truck against the rules and regulations of the Texas Department of Public Safety;
- k. In failing to timely apply the brakes to the pickup truck; and

1. In driving the vehicle in willful and wanton disregard for the safety of persons or property in violation of Texas Transportation Code § 545.401, VTCS.

9. In addition to and without waiving the foregoing, Plaintiff would show that at the time of the incident in question, Defendant C & D PRODUCTION SPECIALISTS CO., INC. maintained control, along with HECTOR LOZANO GARCIA, over the pickup truck Defendant HECTOR LOZANO GARCIA was operating. On and before April 25, 2018, Defendant C & D PRODUCTION SPECIALISTS CO., INC. was negligent in hiring, employing entrusting and supervising Defendant HECTOR LOZANO GARCIA and in providing a dangerous instrument eg. the pickup truck, to Defendant HECTOR LOZANO GARCIA for the purpose of operating same on the public streets and highways of Texas in furtherance of Defendant C & D PRODUCTION SPECIALISTS CO., INC.'s business and profits. Thereafter, Defendant HECTOR LOZANO GARCIA operated the pickup truck with the full knowledge, consent and permission of Defendant C & D PRODUCTION SPECIALISTS CO., INC. At all times herein, HECTOR LOZANO GARCIA was incompetent and unfit to safely operate a pickup truck on and of the public streets and highways of any state or country in that HECTOR LOZANO GARCIA was a reckless, incompetent and an unfit driver and C & D PRODUCTION SPECIALISTS CO., INC. knew, or should have known that HECTOR LOZANO GARCIA was an incompetent, reckless and an unfit driver and that he would create an unreasonable risk and danger to persons and property on the public streets and highways of Texas in that HECTOR

LOZANO GARCIA was a reckless, incompetent and unfit driver. In addition, C & D PRODUCTION SPECIALISTS CO., INC. was negligent in various acts and omissions, including but not limited to the following:

- a. In the hiring of Defendant HECTOR LOZANO GARCIA;
- b. In failing to properly investigate Defendant HECTOR LOZANO GARCIA's driving ability, prior employment history and driving history;
- c. In failing to properly train Defendant HECTOR LOZANO GARCIA to drive C & D PRODUCTION SPECIALISTS CO., INC.'s pickup trucks in a safe and prudent manner;
- d. In failing to properly supervise Defendant HECTOR LOZANO GARCIA to ensure that he would operate Defendant C & D PRODUCTION SPECIALISTS CO., INC.'s pickup trucks in a safe and prudent manner;
- e. In failing to make a prudent inquiry into the driving competency of Defendant HECTOR LOZANO GARCIA;
- f. In entrusting the vehicle driven by Defendant HECTOR LOZANO GARCIA on the occasion in question in that HECTOR LOZANO GARCIA was an unskilled, incompetent and reckless driver, of which C & D PRODUCTION SPECIALISTS CO., INC. knew or through the exercise of ordinary care, should have known;
- g. In allowing the C & D PRODUCTION SPECIALISTS CO., INC.'s pickup truck to have been operated on the occasion in question by an individual, i.e., HECTOR LOZANO GARCIA, who was not properly qualified to operate such pickup truck;

F. DAMAGES

10. As a direct and proximate result of Defendants HECTOR LOZANO GARCIA and C & D PRODUCTION SPECIALISTS CO., INC., Plaintiff has suffered serious and permanent injuries to his body. In all reasonable probability, Plaintiff will suffer for a long time into the future, if not for the balance of his natural life. The injuries have had a serious effect on Plaintiff's health and well-being. Some of these ill effects are permanent and will abide with the Plaintiff long into the future. Plaintiff's ill effects have, in turn, caused his physical and mental conditions to deteriorate generally so that the specific injuries and ill effects alleged have caused and will in all reasonable probability cause him to suffer the consequences and ill effects of such deterioration throughout his body long into the future, if not for the balance of his natural life. Plaintiff's damages are including, but not limited to the following:

- a. Physical pain and mental anguish in the past and future.
- b. Lost earnings.
- c. Loss of earning capacity.
- d. Disfigurement in the past and future.
- e. Physical impairment in the past and future.
- f. Medical expenses in the past and future.
- g. Loss of consortium in the past and future.
- h. Loss of household services in the past and future.

G. PRAYER

11. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for judgment against defendant for the following:

- a. Actual damages over \$1,000,000.00.
- b. Prejudgment and post-judgment interest.
- c. Costs of suit.
- d. All other relief the Court deems appropriate.

Respectfully submitted,

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